

BRIMFIELD TOWNSHIP BOARD OF ZONING APPEALS

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MEETING MINUTES of June 17, 2015

Brimfield Town Hall Meeting Room – 1333 Tallmadge Road, Kent

Present: Lisa Cotton Scot Etling Vince Murdocco Ed Shutt

Alternates: Cheryl Rueschman

Absent: Bruce Knippenberg

Staff: Dick Messner, Zoning Inspector
Wendi O’Neal, Assistant Zoning Inspector

Public Present:

Name	Phone	Company / E-mail
Carol Tosenberger	330.310.7251	
Amy Gibbons	412.528.7362	
Michael Gibbons	412.828.7362	
Bob Sines	330.541.2832	
Kathryn Sines	330.541.2832	
Ken Hicks	419.297.7070	Diverse Development
Michael Casamento	330.673.9988	Plaza Field
Wayne Vanaman Sr.	330.322.6802	Van’s Tire
Wayne Vanaman Jr.	330.730.1212	Van’s Tire

CALL TO ORDER:

Lisa Cotten calls the Brimfield Township Board of Zoning Appeals to order at 7:15 PM Wednesday, June 17, 2015 meeting.

Roll Call:

Cotten = Here

Etling = Here

Knippenberg = Absent

Murdocco = Here

Shutt = Here

Rueschman = Here

Cheryl Rueschman does reserve voting rights this meeting, in lieu of an absent member.

MOTION#2015-0024

A motion is made to accept the Agenda as presented by **Vince Murdocco**, seconded by **Scot Etling**. Motion carries.

MOTION#2015-0025

A motion was made by **Ed Shutty** to approve the March 18, 2015 Meeting Minutes, seconded by **Cheryl Rueschman**. Motion carries.

MOTION#2015-0026

A motion was made by **Vince Murdocco** to approve the May 20, 2015 Meeting Minutes, seconded by **Scot Etling**. Motion carries.

PUBLIC COMMENTS: **None**

SWEARING IN OF APPLICANTS AND COMMENTERS:

Lisa Cotten states that the Board of Zoning Appeals is a quasi-judicial board. We have an application for a conditional permit tonight. Anyone having any statements, comments or questions to make tonight, we ask that you state your name, address, and confirm that all the statements that you are making are true to the best of your knowledge and are considered under oath.

Wendi O'Neal dually notes that the meeting has been advertised per the Ohio Revised Code.

APPLICATIONS:

Variance Application:

Applicant: **Robert, Jr & Kathryn Sines**
Location: **5275 Mill Creek Dr.,**
Parcel: **04-009-10-00-040-020**
Zoning: **R – 3**

Front Yard Setback Variance of 15 Feet; Garage Addition

Wendi O'Neal: Gives a short overview about the property:

- R-3 Zoning District, but property is in Marsh Landing Estates Subdivision with a setback is 35 Feet from road right-of-way.
- Shows aerial picture, tax map, renderings of fascia, renderings of topo for proposed attached garage addition,
- Explains with the 35 Minimum building setback on the corner lot, the property has to sided front setbacks which causes the need for a front setback variance of 15 feet; building will be 20 feet from the road right-of-way.
- All surrounding properties were notified, per the ORC.

Lisa Cotten: Is there an association for the subdivision?

Robert Sines: No, there is not a home owner's association for Marsh Landing Estates.

Vince Murdocco: The applicant did turn in a paper with six (6) signatures of the neighboring properties. Asks if this is the first time that anyone has added on over there do you know?

Lisa Cotten: Is this a common occurrence in this subdivision?

Dick Messner: Yes, it is rather common for these additions to need a variance.

Lisa Cotten: Do you have any recommendations or comments?

Dick Messner: When I did the review, it was a pretty cut and dry situation particularly because all the neighbors had signed off and also no traffic obstruction.

Lisa Cotten: From the renderings it looks as the construction materials will be the same as the house?

Robert Sines: Yes, everything will be better.

Vince Murdocco: Based on everything, I will make a motion to approve the variance.

MOTION#2015-0027

A motion is made by **Vince Murdocco** to approve the variance of fifteen (15) feet for the applicant, Robert and Kathryn Sines, at the property location of 5275 Mill Creek Drive in the Marsh Landing Estates Subdivision, for a garage addition that will be twenty (20) feet from the road right-of-way of Meadow Park Drive as presented; motion was seconded by **Scot Etling**. Motion passes unanimously.

Variance Application:

Applicant: Van's Tire & Brake Center, Wayne Vanaman

Location: 4260 State Route 43

Parcel: 04-032-00-00-049-000

Zoning: H – C

Setback from Road ROW Variance of 19 Feet; Building Addition

Wendi O'Neal: Gives a short overview about the property:

- Applicant is Van's Tire & Brake Center, Mr. Wayne Vanaman
- The property is zoned Highway Commercial
- Specific parcel has frontage on all sides except for the rear; residential properties to the rear.
- Tax map, google overview, renderings
- Proposed plan is to fence in behind the building for excess tires, and enclosing the dumpster
- Proposed addition will be 31 feet from the road right-of-way for Town Square Dr.
- Additional would add two bays.

Vince Murdocco: The addition will conform to the existing structure, as I assume it will.

Wayne Vanaman Sr: 4260 State Route 43.

- Business is doing well, have complied with other requirements that we had
- Cleaned the area up a lot.
- Need to do alignments, and a little more storage area
- So there is a need for an addition

- There is a 60' road ROW, there is 25' of grass area that will not be disturbed
- Addition is still within the parking lot area, and would still be a little parking lot left
- So that is basically what we are asking for a variance on that one side.
- Taking out the tire block that is there now, and moving it to the back surrounded by a fence. Four Foot Chain link for the back of the property. Vinyl for the dumpster.
- Tires are scheduled to be picked up every ten days, by a disposal company. The number of tires kept depends on business within the ten days. Process and storage would be better in the proposed; the tires would no longer be visible.

Board:

- Fence and tire disposal questions; moving the dumpster to north side of the building, with fencing. Type of fence?
- Tires are kept on the premise now and for how long? Are they there for an extended amount of time? Nothing out of the norm as to when they are visible. Consistent with the current disposal process?

Zoning Department:

- Concerns have been expressed about the excavation and elevation and topo of behind the building with concerns of excess water run-off; has to be exactly the same as it is now or taking the off-site discharge of storm water out to Town Square Drive, protecting the properties on Beal Drive.

Wayne Vanaman Sr:

- Brought in 20 truckloads of good fill, because of the extensive drop off in the rear behind the building. Army Corp of Engineers has an appointment with us on Monday, June 22, 2015. Filled in about 30' by 30', intentions are not to do anymore and not disturbing the wetlands which will be determined on Monday.
- Hasn't ever seen water up that high in the back of the property.
- Corp of Engineers will determine the wetlands, does not know the category type.
- States that water has always, for the last two years, just sat in the back of the property with the cat tails; a little higher now but it's because of all the rain.

Amy Gibbons: Part owner of 4248 Biel Drive. I live in Pittsburgh.

- Drainage needs to be the way it was before the fill was placed. Complaints of property being much wetter; drainage and big rains.
- It is a bad area. Had our ditch recently dug because it was flooding the house; the ditch that runs north and south and the one east to west. Believes excess water runs into our ditch and floods yard.
- Admits that it is not just the fill, it is the big rains that have been occurring. And that before 76 there was no water problem.

- Asks who is responsible for the ditch that runs north to south? What about east to west ditch? Confirmed that each side of the ditch that runs north to south is responsibility of the property owner; which is herself.

Board:

- 4248 is directly behind Van's.
- Asks property owner if prior was water an issue for the property? Or prior to the business opening?
- The Army Corp of Engineers is the right way to access the issue.

Zoning Department:

- Army Corp of Engineers will access the wetlands issue and it is encouraging that they are coming.
- Portage County Soil and Water District will handle the storm water management control system as it is phase two of the Clean Water Act.
- One ditch, the east to west, is in the 60' foot road right-of way and is the owned by the Township and controlled by the road department.
- Estimates that it would be highly unlikely to cause any worse and probably is going to be the same or less than in the past.
- Brimfield people have become sensitive to storm water, over the last ten years; as the 100 year flood plain has been exceeded many times. Has seen water in places never seen before like 43 flooding and had never seen that in 50 some years.
- Asks if there is a label for the wetland?
- The ditch, north to south, would be the responsibility of the property owner. In the road right-of-way would be property of Brimfield Township.

Mike Casamento: Represent, John Flynn and Plaza Field, Ltd, 4962 State Route 43

- Property owner adjacent to Gibbons. Thinks the problem with the north to south ditch is that it is not getting to the township's ditch on Town Square. If ditch would be corrected they water would run on to the township road, down to the apartments in to the catch basins with the ability to take the water.
- Just trying to think of a solution for their property.
- Has concerns with the setback restriction if it is going to block the view of 43 coming into town; in regards to the two-bay extensions towards Town Square Drive because they bought the back property (Hilda Rolf's) for future development to connect Town Square Drive to Kelso Drive; is worried about the sight line and height of building. Zoned H-C and T-C, connect Beal drive to Tallmadge road.
- Asks if the building addition is coming towards 43 at all?

Board:

- North to south ditch and getting water to it, is not the responsibility of the Township.
- Is the height of the building going to be the same as the height now?

- Confirms that it's within the appropriate height restrictions for the area.
- Asked where the tire came from in the pictures.
- Asks if Van's is able to have more frequent pickup of the tires, since there will be more business? Maybe instead of 10 days, make it seven or eight days.
- Is that a concern from the rear property owners of having a chain link fence in the back?

Wayne Vanaman Sr:

- It is going to be a half feet higher to accommodate the lifts.
- The mound is going to be untouched.

Zoning Department:

- Confirms that the mound/ hill/grass section that is landscaped by Town Square Drive, by Wendy's would remain the same.
- Setback of the front of the addition will be consistent with the existing building; traffic and visibility should not change.
- County controls all filling stations with regulations.

Amy Gibbons:

- Recycle oil - Is there any worry or should there be any worry about there being any run-off from the oil?
- Above the ground?
- Doesn't know where the tire came from.
- No concern with the fence, as there are enough trees it probably won't be visible.

Wayne Vanaman Sr:

- 500 gallon tank that we store used oil in. Around 200 gallons Akron-Canton Waste oil comes and pumps it all out. Concealed and in good order. Back of building.
- Both, there are traps underground for accidentally or preventing leaks.
- County regulates it and we have to have registered person on staff to handle.
-

Carol Tosenberger: 3560 Gary Drive

- Submits pictures as to the wetness as it was Monday for reference.
- We shorten the amount of space the water can flood, so it gets deeper and less moveable.

Wayne Vanaman Sr:

- We can ask and that is whole reasoning behind the fenced in area in the back; which no one should be able to see because of the trees, but maybe in the winter people could see.

Mike Casamento:

- Concern with the setback, asks since the road right-of-way is 60 feet, if it was 50 feet would there be even be a need for a variance?

- Okay.

Zoning Department:

- There would only be a ten foot difference. Currently it is a variance of 19 feet, with the lower road right-of-way it would then be nine feet.
- Also notes that the applicant could very well build towards State Route 43, but with the proposed they are only building to the south section of the building towards Town Square Drive.

MOTION#2015-0028

Scot Etling makes a motion to accept the variance application upon the exceptions:

- The applicant follow the recommendation of the Army Corp of Engineers
- More frequent pickup of the tires (pickup is scheduled once every 7 – 8 days)
- Fencing, vinyl around the north and south sides of rear enclosed area (tires are not visible)
- Dumpster is enclosed with vinyl fence

Motion is seconded by **Vince Murdocco**. Motion passes unanimously.

Variance Application:

Applicant: Diverse Development, Ken Hicks
Owner: TSS Land CO And Ohio Corp
Location: 340 Tallmadge Road, 366 Tallmadge
Parcel: 04-038-00-00-026-000, 04-038-00-00-025-000
Zoning: G – C

Parking Setback from Road ROW Variance of 15 Feet; Proposed Site Plan

Zoning Department: Gives a short overview about the property:

- Parking setback variance from the road right-of-way of 15 feet, as the Zoning Resolution requires 20 feet.
- Two Variances, as it is per parcel.
- General Commercial District.
- Currently on the property is the CC Circuit building and Mattress Warehouse.
- This section would start from after the spite strip on Highway View Drive, ending at the I-76 entrance ramp.
- Two one-acre lot owned by the same owner.
- Shows proposed site plan, on the 340 Tallmadge would be a 4,000 sq.ft. building, 2 ADA parking spaces, 25' private drives, 36 9'x20' parking spaces, Two proposed monument signs on that parcel. Both entrance and exits on this parcel (shared drives).

- 366 Tallmadge proposed is a building a little over 2,500 sq.ft., 2 ADA spots, 25' private drives, 37 parking spaces 9'x18', one monument sign, one high-rise sign, 8 minimum waiting space per drive thru, estimated at 50 seats, seven employees at any given time
- Both uses are permitted in the General Commercial District.
- Parking would be five feet from the road right-of-way.
- Parcels would remain separate with easement rights.
- Both access drives are on one parcel.
- G-C Requirements: 1 acre lots, 50' front setback (buildings are at 55'), 30' rear, 12' side.
- Exceeds parking requirement.
- Minimum five feet landscaping along road right-of-way
- Everything existing on the parcels would be torn down, complete demo.
- Will need a written agreement from all parties involved as to the shared parking agreement between the two parcels.
- Suggestion would be to do the one entrance and one exit only because of the traffic variable in that area.
- There would be no access from Highway View Drive due to different property owners land.
- Currently the accesses to the parcels are just pulling into a graveled section.
- Accesses are on the one parcel are because typically ODOT wants 200 feet clearance from entrance ramps. The middle drive should be over 200 feet. It is a county road, therefore county engineer will sign off on the approval of the ingress, egress.
- Concern with the stacking backing up, as the retail furniture store does not need all the proposed parking, so that there is some room to work with by eliminating the island.
- Don't want to get into the situation with 90 degree parking and no escape lanes.
- Asks if there is any reason for keeping the parcels split, rather than merging the lots?
- Excessive growth in that area, we would like to see the same color schemes and elevations as the surrounding such as the Cascades, in earth tones; even Pizza Hut had to follow and change their color scheme to match the earth tones. Would like to review on the color scheme.
- Is there a time frame?
- There are all types of violation on those properties now, from junk cars to fire code violations to sign violations. It would a great improvement.

Board:

- Thinks that the with the two access points, one should entrance and one should be exit.
- There would be an easement given between parcels.
- Completely new site plan, demolition of all existing buildings.
- What are the drives like now?
- The county will have to approve the accesses.
- ODOT will have to give permission for the high rise sign.
- Concerned about the drive-thru waiting parking; would it feasible for the costumers to go around the retail building and then to the drive-thru?
- Concern would be getting more than eight cars, it would back out on to the road.

- The traffic is always so full in that area as it is now.
- Would the double entrance be over here somewhere? Okay, I see.
- Would it be possible to push the restaurant back on the property? Towards Tallmadge Road.
- Probably separate for the lease.

Ken Hicks: 1428 Elden Rd. Holland, Ohio, Diverse Development

- Currently under contract to purchase both parcels. Plan is completely demo the lots, rebuild as proposed.
- 4,000 Retail Center, a furniture store.
- Drive-thru quick service restaurant.
- As owner of both parcels will ensure there is an agreement, REA reciprocal easement access agreement between the two that will run with the properties.
- Waiting on ODOT to get the high-rise sign, know we need to get their approval for that.
- Think that the sign is beneficial because of the traffic on I-76.
- It could be feasible.
- We are going to identify the furthest east building with Taco Bell with the high-rise sign, and then the other tenant with a monument sign. So the intention is for the costumers to come in the furthest west and then swing thru the drive-thru and go back out on the most east access.
- Preliminary discussions with this tenant and it could be possible to add a double drive-thru to lower the stacking; merging to one. Would that be allowed, because then you would lose that escape lane? Sometimes people get into a drive-thru and then they want to get out so that is how they would get out.
- It would be back behind the building, if possible. It would be two lanes coming in; I don't know if that allows more stacking or not.
- In our industry I call it flexibility; just never know if we would sell one or keep one or ground lease one; just makes the most sense for us.
- Color schemes as earth tones is no problem; the new Taco Bells now do have that earth tones and stone look.
- Probably spring.

MOTION#2015-0028

A motion is made by **Vince Muroccco** to approve the parking setback variance of 15 feet per Zoning Resolution 600.04.2.b, on both parcels (04-038-00-00-026-000, 04-038-00-00-026-000) with a second by **Scot Etling**. Motion carries unanimously.

AUDIENCE QUESTIONS:

OLD BUSINESS:

NEW BUSINESS:

GOOD OF THE ORDER:

Dick Messner compliments the Board of Zoning Appeals for all the work they do and appreciates their effort for Brimfield Township. Dick Messner and the Board of Zoning Appeals compliments Wendi O’Neal on her effort and work while Dick Messner was on vacation.

SET NEXT MEETING:

Next meeting is scheduled for Wednesday, July 15, 2015, at 7:15 PM.

ADJOURN:

MOTION#2015-0029

A motion was made by **Vince Murdocco** to adjourn the June 17, 2015 Board of Zoning Appeals meeting, and was seconded by **Scot Etling** at 8:00 PM. Motion carries.

Chairman Bruce Knippenberg

Vice Lisa Cotten

Scot Etling

Vince Murdocco

Ed Shutt

Secretary Wendi O’Neal

Alternate: Cheryl Rueschman